

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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WILLIE N. COLEMAN,

Plaintiff-Appellant,

v

GENERAL MOTORS CORPORATION,

Defendant-Appellee.

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UNPUBLISHED  
November 8, 2011

No. 300010  
WCAC  
LC No. 07-000268

Before: WHITBECK, P.J., AND MURRAY and DONOFRIO, JJ.

PER CURIAM.

Plaintiff Willie Coleman appeals by leave granted the decision of the Worker's Compensation Appellate Commission (WCAC) affirming the magistrate's denial of disability benefits. We reverse and remand for additional proceedings.

**I. FACTS**

Coleman began working for defendant General Motors Corporation (GM) in Michigan in 1977. While working in GM's plants in Flint and Saginaw, he experienced numbness and pain in his fingers and palms, received treatment, and worked with restrictions to his upper extremities. Coleman transferred to Georgia in December 1997, and his symptoms continued. Coleman had carpal tunnel surgeries in 1999 and 2000, and after the surgeries, no jobs with GM were available within his restrictions. Coleman received a disability pension, and he also received benefits through the State of Georgia worker's compensation system.

Coleman sought worker's compensation benefits in Michigan, asserting that he was disabled by his carpal tunnel syndrome, with injury dates of October 18, 1995, and November 30, 1997. After a hearing, the magistrate found that Coleman failed to establish that he was entitled to benefits. The magistrate noted that Coleman moved to Georgia and established residency there in 1997. He worked for a year and a half, and aggravated his pre-existing condition. Under MCL 418.301, the date of injury for a condition not caused by a single event is the last day in which the employee was subjected to the condition that resulted in the disability. Therefore, the magistrate found that Coleman had not established that Michigan had jurisdiction to award benefits since the last day he was subjected to the condition occurred in Georgia. The magistrate concluded that MCL 418.845 governed jurisdiction for out-of-state injuries, and for Coleman to receive benefits in Michigan, he was required to show that he was a resident of Michigan. Coleman admitted that he was a resident of Georgia on the date that he was last

subjected to the conditions that led to his disability and was not entitled to Michigan worker's compensation benefits.

Coleman appealed to the WCAC. The WCAC noted that the magistrate concluded that Coleman was a resident of Georgia when his extremity condition became totally disabling. However, the WCAC concluded that the magistrate did not have jurisdiction to apply section 301(1) to determine whether Coleman suffered an injury or aggravation in Georgia, because that employment was not subject to the Michigan Workers' Disability Compensation Act. The magistrate only had jurisdiction to determine what, if any, injury Coleman sustained during his Michigan employment. According to the WCAC, if Coleman's work in Michigan contributed to his injury, it must be considered in determining whether he was entitled to benefits. The WCAC noted that Coleman had not alleged a last date of employment injury, but he did allege a specific injury date of October 18, 1995, and the magistrate was required to make a finding as of that date, without considering any work performed in Georgia. The WCAC remanded the case to the magistrate, and retained jurisdiction. (The dissenting commissioners would have affirmed the magistrate.)

On remand, the magistrate found that although Coleman established that his carpal tunnel syndrome existed on October 18, 1995, he did not establish that he had lost wage earning capacity except between January 23, 1995 and April 3, 1995, when he refused restricted work.

After remand, the case returned to the WCAC. The WCAC observed that the case was a procedural morass and affirmed the magistrate, but not for the reasons that the magistrate stated. The majority found that there was no competent, material, and substantial evidence showing that Coleman sustained an injury in Michigan. This Court then granted Coleman's application for leave to appeal.

## II. WORKER'S COMPENSATION APPELLATE COMMISSION DECISION

### A. STANDARD OF REVIEW

Coleman argues that the WCAC's decision was based on a legal error concerning retroactive application of *Karaczewski v Farbman Stein Co*,<sup>1</sup> and should be reversed. This Court's review of a WCAC decision is limited. Absent fraud, findings of fact made or adopted by the WCAC are conclusive on appeal if there is any competent supporting evidence in the record.<sup>2</sup> But a WCAC decision is subject to reversal if the WCAC operated within the wrong legal framework or if its decision was based on an erroneous legal reasoning.<sup>3</sup> This Court reviews de novo questions of law arising in any final order of the WCAC.<sup>4</sup>

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<sup>1</sup> *Karaczewski v Farbman Stein Co*, 478 Mich 28; 732 NW2d 56 (2007).

<sup>2</sup> *Schmaltz v Troy Metal Concepts, Inc*, 469 Mich 467, 471; 673 NW2d 95 (2003).

<sup>3</sup> *Id.*

<sup>4</sup> *Mudel v Great Atlantic & Pacific Tea Co*, 462 Mich 691, 687 n 3; 614 NW2d 607 (2000).

## B. ANALYSIS

A factual error and a change in the law require reversal of the WCAC.<sup>5</sup> In its remand order to the magistrate, the WCAC erred in precluding the magistrate from considering the November 1997 injury date that Coleman pleaded. And the change in case law regarding out of state injuries exacerbates this error.

A previous version of MCL 481.845 stated that the agency would have jurisdiction where the injured employee is a resident of this state at the time of injury and the contract of hire was made in this state. The Supreme Court interpreted that version of the statute, however, as allowing a nonresident of Michigan to receive worker's compensation benefits if the contract for hire was made in this state.<sup>6</sup> In *Karaczewski*, the Supreme Court overruled that interpretation and held that the statute provided for Michigan jurisdiction only where the employee is a resident of this state when the injury occurred and the contract for hire was made in Michigan.<sup>7</sup> The Court also determined that its holding should have retroactive effect.

The Legislature subsequently amended MCL 418.845,<sup>8</sup> effective January 13, 2009, giving the worker's compensation agency jurisdiction when an injury takes place out of state if the employer is subject to the act, and either the employee is a resident of the state at the time of the injury or the contract of hire was made in this state. And in *Bezeau v Palace Sports & Entertainment*,<sup>9</sup> the Court reversed that portion of *Karaczewski* that gave the decision retroactive effect. The Court stated that its holding only affected claims based on injuries that occurred on or before the date the Court decided *Karaczewski*, as long as the claim had not reached final resolution in the court system.<sup>10</sup>

Here, Coleman's injury took place well before *Karaczewski* was decided. While Coleman alleged injury dates in Michigan, GM presented evidence concerning Coleman's work history and health condition in Georgia. In the initial decision, the magistrate found that Coleman's injury date was the last date he was subjected to the conditions that led to his disability while he was working in Georgia in 1999, and thus Coleman was not entitled to Michigan worker's compensation benefits. The appellate commission found that the magistrate exceeded his jurisdiction in reviewing an injury that took place in Georgia.

The decisions of the magistrate and the appellate commission are premised on the now-erroneous finding that the agency lacked jurisdiction over injuries that took place in Georgia. While Coleman did not plead a Georgia injury date, the magistrate and appellate commission

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<sup>5</sup> *Schmaltz*, 469 Mich at 471.

<sup>6</sup> *Boyd v W G Wade Shows*, 443 Mich 515; 505 NW2d 544 (1993).

<sup>7</sup> *Karaczewski*, 478 Mich at 30.

<sup>8</sup> 2008 PA 499.

<sup>9</sup> *Bezeau v Palace Sports & Entertainment*, 487 Mich 455; 795 NW2d 797 (2010).

<sup>10</sup> *Id.* at 468.

considered Coleman's work in Georgia in their decisions. Given the intervening changes in the law, for the sake of clarity, a remand is warranted to allow the magistrate and commission to decide the case under the appropriate legal standard.

We reverse the decision of the WCAC, and we remand the matter for further action consistent with this opinion. We do not retain jurisdiction.

/s/ William C. Whitbeck  
/s/ Christopher M. Murray  
/s/ Pat M. Donofrio